APPENDIX II.

[Vide answer to starred question No. 824 asked by Sri A. Vedarathnam at the meeting of the Legislative Assembly held on 26th April 1960, page 410 supra.]

Whenever a case of tax-exasion is brought to the notice of the authorities, the appropriate remedy provided under the relevant taxing statute is taken. The details of the various measures taken by Government to prevent evasion of the various taxes and duties are furnished below :—

The Commercial Tax Act contains provisions for suitable action being taken against tax-evasions and tax-evaders. The various sections in the Madras General Sales Tax Act, 1959, which deal with punishments for evasion of tax are given below and these provisions seem sufficient to arrest evasions :—

Section 42 (3).—Powers to confiscate goods which are under transport and are not supported by transport documents.

Section 41 (4).—Powers to confiscate goods which are not accounted for in the books of account maintained in the course of business.

Sections 12 (3), 16 (2) *and* 23.—Powers to levy penalty equal to one and half times the tax evaded for failure to report the turnover to the department or for making purchases with concessional rate of tax by misrepresenting facts to the sellers.

Sections 45 (2) *and* (3).—Powers given to Magistrates to impose simple imprisonment in respect of grave offences.

A more detailed note on the action taken to check evasion of taxes levied under—

(1) the Madras General Sales Tax Act, 1959 and Central Sales Tax Act, 1956,

(2) the Madras Entertainments Tax Act, 1939,

(3) the Madras Sales of Motor Spirit Taxation Act, 1939, and

(4) the Madras Betting Tax Act, 1935,

is furnished in Appendix I. The Commercial Taxes Department has been reorganised with effect from 1st April 1959 with reference to the recommendations of Dr. Lokanathan. Under this reorganised set-up, an Intelligence and Inspection wing has been formed in the Department under the overall control of the Deputy Commissioner of Commercial Taxes (Intelligence). The field staff consisting of Assistant Commercial Tax Officers and Deputy Commercial Tax Officers attend to detection and checking of evasions and also gathering of statistics of goods transported by rail and road. The assessment staff also attend to inspection of shops and detection of evasions.

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Motor vehicle tax.—As regards prevention of evasions of payment of Motor Vehicles Tax, Government have issued detailed and sufficient instructions to be strictly observed by the authorities concerned, the details of which are furnished in Appendix II.

Stamp duties.—The only evasion of tax that is possible here is that an instrument may be insufficiently stamped by a party. The stamp law itself provides for collection of deficit stamp duty and penalties in such cases.

Agricultural income-tax.—Detailed instructions have been issued by the Commissioner of Agricultural Income-tax to all his subordinate officers on the prevention of evasion of agricultural income-tax. The details of the instructions are furnished in Appendix III.

APPENDIX I.

NOTE ON THE ACTION TAKEN TO CHECK EVASION OF SALES TAX UNDER THE MADRAS GENERAL SALES TAX ACT, 1959, ETC.

With a view to check evasion of sales tax in respect of goods transported by lorries, the Government have opened check-posts around Pondicherry, at important places around the borders of this State and at important routes leading to the Madras City with necessary staff. In this connexion all officers of the Commercial Taxes Department not lower in rank than an Assistant Commercial Tax Officer have been empowered—

(*a*) to require the driver or any other person in-charge of any vehicle or boat to stop the vehicle or boat, as the case may be, at any place and to keep it stationery so long as may reasonably be necessary;

(*b*) to examine the contents in the vehicle or boat and inspect all records relating to the goods carried, which are in possession of such driver or other person in-charge of the vehicle or boat; and

(*c*) to seize and confiscate goods which are under transport by any vehicle or boat as are not covered by a bill of sale or a delivery note, etc. The staff at the check-posts gather particulars of the goods transported by lorries and they are communicated to the Commercial Tax Officers concerned to ascertain and verify whether the goods have been brought to accounts of the dealers. The extracts received from the check-posts are got verified with the dealers' accounts through the special staff sanctioned for the purpose. Whenever the verifications reveal any suppression, the cases are reported to the concerned assessing officers for assessment. The Government have also created a separate wing called the Intelligence and Inspection Wing for Collection of statistics of goods imported and exported from the State at important railway stations and goods yards, and also of goods purchased by big business concerns and the like, with a view to detect evasions of sales tax on such goods.

There are provisions in the Act for—

(1) seizure of accounts, registers or other documents of a dealer suspected to attempt to evade the payment of any tax;

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(2) seizure of goods which are found in any office, shop, godown, vessel, vehicle or any other place of business, etc., but not accounted for by the dealer in his accounts, registers, etc.;

(3) levy of penalty for evasion of tax;

(4) prosecution of a dealer for fraudulent evasion of payment of tax.

NOTES ON ACTION TAKEN AGAINST EVASION OF TAXES UNDER THE MADRAS ENTERTAINMENTS TAX ACT, 1939, THE MADRAS SALES OF MOTOR SPIRIT TAXATION ACT, 1939, THE MADRAS BETTING TAX ACT, 1935, AND THE CENTRAL SALES TAX ACT, 1956.

Madras Entertainments Tax Act, 1939.

Evasion of entertainments tax can be in the following ways:—

(1) Admission of persons to the auditorium without issue of tickets.

(2) Issuing to the spectators the same tickets over and over again without punching them or tearing them into two halves.

(3) Issue of duplicate tickets without the Entertainments Tax Officer's seal or with an unauthorized duplicate seal of the Entertain ments Tax Officers.

The Madras Entertainments Tax Act, 1939, providing for any officer authorized in this behalf to enter any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment at any reasonable time for the purpose of seeing whether the provisions of the Act or any rules made thereunder are being complied with. The following authorities have been authorized to exercise the powers mentioned above:—

(*a*) Officers of the Commercial Taxes Department not below the rank of Assistant Commercial Tax Officer;

(*b*) officers of the Police Department not below the rank of head constable;

(*c*) officers of the Land Revenue Department not below the rank of Revenue Inspector; and

(*d*) village headman in non-municipal areas.

Provision has also been made in the Madras Entertainments Tax Rules, 1939, empowering any officer of the Commercial Taxes Department not lower in rank than an Assistant Commercial Tax Officer, to enter and search at all reasonable times any premises where records such as accounts, tickets used and unused and portions thereof, all stamps or any other articles connected therewith are kept or suspected to be kept by the proprietor in respect of which an offence under the Madras Entertainments Act, 1939 is reasonably suspected to have been committed and to seize and retain as long as may be necessary, all or any of them for the purpose of investigation. For fraudulent evasion of payment of any tax due under the Act, the Act lays down the levy of a fine extending up to Rs. 500 on conviction of the person concerned by a Magistrate. The evasion of entertainments tax is checked now by the exercise of the powers mentioned above by the authorities concerned. The question of empowering the

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executive officers of Panchayats and the Commissioners of Municipalities also to exercise the powers of inspection of places of entertainment with a view to checking the malpractices indulged in by proprietors, is separately under consideration. The Board has proposed the employment of a flying squad consisting of one Deputy Commercial Tax Officer, two Assistant Commercial Tax Officers and three peons for purposes of checking the evasion of entertainments tax, the squad being also provided with a jeep or similar vehicle to enabde it to inspect touring cinemas in remote rural areas. This proposal is also separately under consideration.

Madras Sales of Motor Spirit Taxation Act, 1939.

The tax under the Act is levied on the importers and the wholesale dealers in motor spirit. The bulk of the tax is realized in Madras City where the major oil companies have their offices. There is scope for evasion of tax in respect of the transaction of retail dealers in places adjoining State borders, who get supplies of motor spirit from stock points outside the State and become 'importers' under the Act liable to pay tax, as such dealers may suppress full particulars of the supplies received by them from their accounts. This is checked to a certain extent by getting particulars of supplies made by the oil companies to dealers in this State from stock points both inside the State and outside the State. The Act provides that all accounts and vouchers relating to stocks, purchases, sales and deliveries of motor spirit kept by importers, wholesale dealers and retail dealers and the stocks of motor spirit with them shall be open to inspection by such officers as the State Government may authorize in this behalf. The following officers have been authorized in this behalf:—

(1) All officers of the Police Department not below the rank of Inspector;

(2) all officers of the Revenue Department not below the rank of Deputy Tahsildar; and

(3) all officers of the Cemmercial Taxes Department not below the rank of Assistant Commercial Tax Officer.

The Act also provides—

(1) for the confiscation of the motor spirit in respect of which an offence is committed and any receptacle in which such spirit is contained;

(2) for entering and searching any building, vessel, vehicle or place in which there is reason to believe that any motor spirit liable to confiscation is kept or concealed;

(3) for seizing any motor spirit and any receptacle believed to be liable to confiscation under the Act; and

(4) for detaining, searching and arresting any person believed to be guilty of any offence against the Act.

For fraudulent evasion of payment of tax by any person, the Act provides for the levy of a fine extending up to Rs. 1,000 in the event of conviction by a Magistrate.

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Madras Betting Tax Act, 1935.

The taxes under the Act are collected by the Madras Race Club, Madras, in respect of the races held at Guindy and by the Ootacamund Race Company, Limited, Ootacamund, in respect of the races held at Ootacamund. No large scale evasion of the tax has come to the notice of the Government. However, the Commissioner of Commercial Taxes, Madras, and any officer subordinate to him not below the rank of Assistant Commercial Tax Officer as may be appointed by the Commissioner of Commercial Taxes, have been authorized to inspect the race meetings and the accounts of betting thereat. Evasions, if any, are checked by the exercise of the above powers.

Central Sales Tax Act, 1956.

The steps taken to check evasion under the Madras General Sales Tax Act, 1959, regarding which a separate note has already been furnished above, covers the evasions under this Act, as the same officers are administering this Act.

APPENDIX II.

NOTE THE STEPS TAKEN TO PREVENT EVASION OF PAYMENT OF MOTOR VEHICLES TAX.

The following instructions have been issued by Government to prevent evasion of the tax:—

(1) *Ensuring levy of correct rate of tax.*—The rate of tax due on a motor vehicle should be entered legibly on top of page 13 of the registration certificate of the vehicle and attested by the Regional Transport Officer concerned.

(2) *Nomination of treasury by owners of transport vehicles so that tax may be paid at the same treasury every year.*—Owners of the motor vehicle plying for hire and used for transport of passengers and of all lorries should be compelled to nominate the treasury at which they desire to pay the tax and the tax on the vehicle should be accepted only at the treasury so nominated.

(3) *Maintenance of register by licensing Officers.*—All licensing officers appointed under the Madras Motor Vehicles Taxation Act, 1931, are required to maintain a register in respect of all motor vehicles for which tax is paid to them.

(4) *Submission of monthly statement by the licensing officers to the Regional Transport Officer concerned.*—All the licensing officers who maintain the register referred to in paragraph 3 above should send a monthly statement showing the following particulars to the Regional Transport Officer concerned for verification and confirmation of the correctness of the tax collected:—

(i) The distinguishing mark and the registered number of the transport vehicle;

(ii) the amount of quarterly tax due and endorsed in the registration certificate;

(iii) the amount of tax paid;

(iv) the date of payment; and

(v) the period for which it was paid;

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(5) *Verification of statement by Regional Transport Officer.*—All Regional Transport Officers should verify the above statements received from the licensing officers regarding the correctness or otherwise of the tax collected in respect of the transport vehicle of that area and in case of short collections they should refer the matter to licensing officers concerned to collect the arrears and in case of failure take necessary steps to prosecute the defaulters.

(6) *Rate of tax to be noted in permit and permit register by Regional Transport Officers.*—The Regional Transport Officers should note the rate of tax due in respect of each transport vehicle in the permit issued therefor and in the permit register maintained in his office for the purpose of verification referred to in paragraph 5 above.

(7) *Regional Transport Officer to ensure that vehicle which have not paid tax are not put on the road.*—The Regional Transport Officers should also ensure that if it was found that no tax has been paid for transport vehicles for a quarter or for a portion thereof, the vehicle was not put on the road during the period.

(8) *Payment of tax made a condition of permit.*—The motor vehicle rules have also been amended by inserting a new rule 180-C, which makes it a condition of every permit that the vehicle or vehicles specified on it shall not be used on any public road unless the tay due in respect of each vehicle or vehicles has been paid.

(9) *Realization of tax in respect of vehicles for which temporary permits issued by the Treasury Deputy Collector under the powers delegated to him.*—It is obligatory on the Treasury Deputy Collector to ensure that the tax due in respect of the vehicles for which temporary permits are issued by him with reference to the powers delegated to him under rule 184-F of the Motor Vehicle Rules is duly remitted before the temporary permits are actually issued.

(10) *Licence forms for transport and non-transport vehicles to be separate.*—All licence forms for transport vehicles should have the words ' Transport Vehicles ' printed in the original, duplicate and triplicate of such forms. Similarly all licence forms for non-transport vehicles should have the words ' non-transport vehicle ' printed in the original, duplicate and triplicate of such forms.

(11) *Distinguishing marks for licences for transport vehicles and non-transport vehicles.*—With a view to prevent misuse of the licence and to enable the checking officers to check up the particulars noted in the taxation licence the following instructions have been issued with effect from 1st April 1955:—

(i) The licence for transport vehicles will be characterised by a crimson red oblique band and the licence for non-transport vehicles will be distinguished by the absence of the crimson red oblique band. The colours for cross-arms in either cases will change from quarter to quarter.

(ii) The distinction between the period of validity, i.e., annual, half-yearly and quarterly may be by different designs. With a view to ensure that there is no evasion of tax by vehicle owners general checks are conducted by the Police in the second week of the first month of each quarter and local surprise checks are made thereafter to spot out vehicles which have not paid tax.

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(12) *Station House Officers to check payment of tax.*—The Station House Officers are required to check the payment of motor vehicle tax in respect of the transport vehicles when they call for making entries in the T.G.R. kept in police stations and to report to the Regional Transport Officer promptly, the result of their checking. It has also been ordered that great care should be exercised in the issue of duplicate registration certificates and before issuing them, Regional Transport Officers are required to take care to ensure that no arrears of tax are due in respect of the vehicles.

(13) *Maintenance of Demand, Collection and Balance Register by Regional Transport Officer.*—The Regional Transport Officers of the districts are maintaining a Demand, Collection and Balance Register in respect of transport vehicles. The column in the Demand, Collection and Balance Register relating to collection is filled with reference to the returns received from the sub-treasury officers (regarding the quarterly tax paid) over which reference to the entries of payment of tax in the registration certificates, the extracts of which are sent to the Regional Transport Officer concerned by the Motor Vehicle Inspector as and when the vehicles are checked for fitness certificate. In cases where the column relating to payment of tax remain unfilled in the Demand, Collection and Balance statement the circumstances leading to non-payment of tax are ascertained and if the tax is rightly due action is taken to collect the arrears.

(14) *Licensing Officers to send duplicate copies of licences to Collector through Regional Transport Officer.*—All licensing officers are required to submit the duplicate copies of the licences issued by them to the Collectors through the Regional Transport Officers. This will enable the Regional Transport Officers to get the Demand, Collection and Balance Registers checked up properly with reference to the entries in the duplicate copies of licences issued.

(15) *Ensuring payment of correct amount of tax into the treasury.*—Government have also ordered the issue of triplicate chalans in all payments under the Madras Motor Vehicle Taxation Act, 1931, and that a copy of the chalan should be sent to the Regional Transport Officer promptly to enable the latter to detect under payment or non-payment of tax and to take necessary action promptly.

APPENDIX III.

Details of instructions issued to the concerned authorities by the Commissioner of Agricultural Income-tax.

Experience shows that some of the unscrupulous assessees conceal or under-estimate the income and inflate the expenditure, either with accounts and vouchers or without them. There are several ways of burking the income and inflating the expenditure. So far as income is concerned the crops can be sold either through brokers or through the land owners who come within the exemption limit. Hence it is necessary that the Agricultural Income-tax Officers before computing any income of the assessees should find out whether the income furnished by the assessee is in consonance with the value obtained in the market. If the Agricultural Income-tax Officer, comes to the conclusion after detailed enquiries, that the income furnished by the assessee is incorrect he can reject the income furnished by the assessee after giving detailed reasons for such rejection and estimate the income

of the assessee with reference to the prices obtained in the market or with reference to the prices obtained by the adjoining land owners. The point to be borne in mind is that the estimates should be reasonable and that the rejection of the assessees' figures should be based on proper reasons. It is also not necessary that because the income furnished by the assessee is not accepted, the expenditure furnished by the assessee should also be rejected. It is open to the Agricultural Income-tax Officer to accept the expenditure as furnished by the assessee if he is of the view that it is reasonable.

The expenditure may be inflated in several ways. The main principle to be borne in mind is that personal expenditure, of the owner or other persons related to him, and expenditure of a capital nature on the land are not allowable items of deductions. Section 5 of the Act clearly deals with the expenditure to be allowed. Among the allowable items of deductions, there is a tendency to inflate expenditure in the following ways:—

(1) Inflating expenditure on manure; manuring varies from field to field. Some of the unscrupulous assessees purchase manure with proper vouchers and sell them to the landlords owning lands below the exemption limit and to the assessees who have been exempted under section 4 (*b*) of the Act. In such cases, it is open to the Agricultural Income-tax Officer to reject the expenses though claimed on proper voucher and estimate the reasonable expenditure that can be allowed under this head. But he should give proper reasons for the rejection of the vouchers, such as by comparison with the expenditure incurred in the neighbouring fields, etc.

(2) *Purchase of cattle.*—The assessees may inflate the expenditure over this item. Though they might not have purchased cattle in the particular year, they may claim as if that the cattle have been purchased in the year of account. As this involves heavy expenditure, the Agricultural Income-tax Officers should satisfy themselves with the regard to rule 5 under the Act that the expenditure is reasonable and that sale proceeds of old cattle of any are deducted.

(3) *Tractors.*—It is learnt that the owners of tractors use the tractors for some days for their own fields and let it on hire to other land owners. At the same time, they are claiming the full petrol and other incidental charges and full depreciation. In such cases, the Agricultural Income-tax Officers should estimate the period for which the tractor was in use for the owner's lands and should allow proportionate petrol and other incidental charges and only proportional depreciation for the above period should be allowed.

(4) *Labour charges.*—The land owners are employing permanent and casual labourers for cultivation. Experience shows, that the land owners are inflating the expenditure over this item. In cases where the assessees, have maintained check roll, it should be clearly examined whether the check roll wages claimed are covered by proper vouchers and reasonable. If the check roll wages are not covered by proper vouchers, it is open to the Agricultural Income-tax Officer to reject the check roll wages and to estimate the expenditure on account of this item. In cases where the assessees have not maintained any check rolls or vouchers the Agricultural Income-tax Officers should estimate the expenditure under this head with reference to the practice obtained in the locality and the expenses incurred by the neighbouring land owners and allow them with sufficient reasons.

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(5) *Inflation of expenditure in maintenance of cattle.*—Generally, the landlords maintain cattle according to their needs and production. If there is any claim on account of the purchase of cattle manure it will have to be gone through carefully before allowing such expenses as they do not generally purchase cattle manure in the market.

(6) *Allowance of expenditure regarding casuarina.*—The expenditure incurred over this item should be allowed only in the year of harvest. It is seen that the assessees are claiming expenditure every year before the casuarina matures. Such expenditure should not be allowed. In cases where the assessees have not maintained accounts for rearing up the casuarina trees, the expenditure that should be allowed under rule 7 (*a*) can be estimated and reasonable expenditure allowed.

(7) *Expenditure on double crop lands.*—It is seen that the assessees are claiming the same expenditure for the first and second crop. The expenditure for the second crop may not be same as for the first crop as there will not be so much of ploughing and manuring. The expenditure for the second crop should be below the expenditure for the first crop. The Agricultural Income-tax Officers should bear this in mind while allowing such expenditure.

(8) *Land revenue.*—Land revenue is an item that cannot be waived unless there is remission. It is the duty of the Agricultural Income-tax Officers to make enquiries with the village officers and to allow proper amount under this head if already incurred by the assessees.

TRUTH ALONE TRIUMPHS